

LESSON PLAN

EQUAL OPPORTUNITY COMPLAINT PROCEDURES

TASK: Describe equal opportunity complaint procedures of the Equal Opportunity Program.

CONDITIONS: In a small group discussion environment.

STANDARDS: All participants will be able to describe equal opportunity complaint procedures.

TARGET AUDIENCE: All leaders and soldiers.

TIME OF INSTRUCTION: 2 Hours

MEDIA: Slides (Optional)

TOPICS COVERED: Types of complaints; alternative agencies; entering the EO complaint process; the right to appeal; and protection against reprisal or intimidation.

INTRODUCTION

Discrimination and sexual harassment can have serious consequences for the unit cohesion and teamwork essential to winning on the battlefield. The Army's EO complaint process is designed to address grievances specifically related to discrimination based on race, color, national origin, religion or gender. All soldiers, family members, and DA civilians have the right to report acts of discrimination and other EO violations to the chain of command or to other appropriate individuals.

The chain of command is the primary channel for handling allegations and correcting incidents of discrimination or sexual harassment. Although a number of alternative agencies are available, soldiers and DA civilians are encouraged to bring their complaints to their first-line supervisors for resolution at the lowest possible level.

The commander, with the help of the chain of command and NCO support channel, is responsible for ensuring that all soldiers and DA civilians are fully aware of the procedures for making EO complaints. These procedures are required to be in writing and prominently posted in the unit or work area.

DISCUSSION QUESTION: Do you know where these are posted in this unit?

INSTRUCTOR NOTE: Indicate that written complaint procedures should also provide the following: the name and telephone number of the organization's EOA and/or EOR and the installation EO/Sexual Harassment "HOTLINE". Provide information on each category as it relates to your command.

This lesson addresses a number of initiatives that are designed to increase the overall effectiveness of the Army's EO complaint process.

In recent years soldiers have frequently complained of little or no feedback after an EO complaint had been filed. Both investigation and processing of complaints typically moved very slowly. This sometimes resulted in no actions being taken as witnesses, complainants, and alleged perpetrators changed duty stations or retired from active service. Soldiers also lacked a viable appeal process. The fear of reprisal in reporting discrimination or sexual harassment complaints caused such complaints to be reported infrequently or not at all.

Revisions to AR 600-20 resulted in significant changes in the complaint process. The new system allows complaints to be solved at the lowest possible level. In addition, it identifies the use of alternative agencies, external to the unit, which can help process EO complaints and identify appropriate resolutions. Regardless of which agency the complainant chooses, the chain of command must be responsible for resolving allegations.

INSTRUCTOR NOTE: Refer to AR 600-20, Chapter 6, for detailed instruction on procedures for processing EO complaints.

Slide #1-Optional

TYPES OF COMPLAINTS	
Formal	Informal

TYPES OF COMPLAINTS

There are two types of EO complaints:

INFORMAL COMPLAINTS

An informal complaint is one in which the complainant does not wish to file in writing. This type of complaint is often resolved at the lowest level, and may not require involving the chain of command.

Informal complaints are not subject to timelines nor are they reportable to higher headquarters. However, they are important and should be addressed with a sense of urgency and a sincere intent to resolve the complaint.

INSTRUCTOR NOTE: The mere fact that a soldier wants his or her complaint handled informally does not prevent the commander from conducting a formal investigation and requiring the soldier to make a sworn statement.

FORMAL COMPLAINTS

A formal complaint follows a prescribed process. A soldier files a formal complaint by submitting a sworn written statement on the Equal Opportunity Complaint Form, DA Form 7279R. The soldier identifies the alleged concern(s), names the parties and witnesses involved, describes the incident(s) or behavior, and specifies the date(s) of the occurrence(s). The soldier also states the EO basis of the complaint (i.e., discrimination based upon gender, race, ethnicity, religious affiliation, or sexual harassment) and what action he or she would like taken in resolving the complaint.

Attention to detail is important. This form provides the commander with facts which may determine the validity of the allegations.

Formal complaints are recorded, and reported by each command in quarterly and annual unit complaint reports. In addition to a copy of DA Form 7279-R, documentation on the final disposition of the complaint is kept at the first echelon of command authorized an EOA for a period of two years after the resolution of (or final decision on) the complaint.

Soldiers and family members have 60 calendar days from the date of the alleged offense in which to file a formal complaint. This time limit was established to set a reasonable parameter for investigating and resolving complaints (e.g., availability of witnesses, accurate recollection of events, and timely remedial action). The commander may, at his or her discretion, investigate and take action on complaints filed after the 60 calendar day period.

INSTRUCTOR NOTE: Ensure that the class understands that allegations that are criminal in nature are exempt from the 60-calendar day rule and will be immediately referred to Military Police or CID.

COMPLAINTS AGAINST A MEMBER OF THE CHAIN OF COMMAND

There are also procedures for filing formal EO complaints against members of the chain of Command. Soldiers who wish to file a formal complaint against members of the chain of command may use a number of alternative channels. These include a higher echelon commander, the organization or installation Command Sergeant Major (CSM), Equal Opportunity Advisor (EOA), chaplain, Office of the Staff Judge Advocate (JAG), Provost Marshal Office (PMO), Criminal Investigators (CID), Adjutant General (AG), Housing Referral Office (HRO), and the Inspector General (IG).

INSTRUCTOR NOTE: The timelines and procedures outlined in this lesson plan do not apply to complaints filed with the IG. Complaints filed with the IG will be processed outside of EO channels in accordance with AR 20-1.

SLIDE #2-Optional

COMPLAINTS AGAINST A MEMBER OF THE CHAIN OF COMMAND/ USE OF ALTERNATIVE AGENCIES	
EOA	HRO
CHAPLAIN	IG
PMO	AG
SJA	

ALTERNATIVE AGENCIES

Although handling EO complaints through the chain of command is strongly encouraged, this is not the only channel. Should the complainant feel uncomfortable in filing a complaint with the chain of command, or should the complaint be against a member of the chain of command, a number of alternative agencies exist have specific command responsibilities that make them a viable asset in helping soldiers and family members resolve EO grievances.

Commanders are responsible for ensuring that soldiers are not discouraged from using these agencies. Should the receiving agency determine that the complaint should be referred to another agency or the chain of command, the referral will be accomplished within three calendar days. The following are frequently used agencies with a brief description of each agency:

- o Equal Opportunity Adviser (EOA): Assigned to help commanders at brigade or higher levels to implement their EO program. The EOA is trained to receive, process, and conduct inquiries into complaints of discrimination and sexual harassment. In addition, the EOA has the expertise to make recommendations for corrective actions and sanctions against violators of EO policies.

- o Chaplain: Serves as advisor to the command on all religious, ethical matters and provides guidance on religious practices, family and marital counseling, and other secular or religious services. The chaplain is the subject matter expert on addressing issues concerning religious discrimination or accommodation. (Instructors Note: Religious Accommodation is not an EO matter under Army policy, but religious discrimination is.)

- o Provost Marshal (PM): Is primarily responsible for receiving and investigating violations of the UCMJ which are criminal in nature. The PM is responsible to the Commander for monitoring the treatment of soldiers and investigating complaints of discrimination or unfair treatment by off-post activities.

o Staff Judge Advocate (SJA): Is responsible to the Commander on all legal matters. The SJA serves as an advisor in litigating criminal charges and prosecuting soldiers for criminal offenses; assesses trends in administering punishment and allegations of discrimination in administering military justice; may receive complaints about discrimination in legal proceedings or about administering judicial and nonjudicial punishment.

o Housing Referral Office (HRO): Is responsible for monitoring and administering the installation's housing referral program. The HRO will receive and investigate complaints of discrimination in rental or sale of off-post residents.

o Inspector General (IG): Serves as advisor to the commander on all matters of command. The IG is responsible for monitoring and inspecting command functions which are essential to mission effectiveness and combat readiness. The IG's office is the principal agency for receiving and investigating complaints about command environment and leadership. (See para 1-4, AR 20-1.)

o Adjutant General (AG): Responsible to the commander on all personnel management issues. The AG can receive a variety of administrative appeals and requests for personnel actions related to EO allegations.

SLIDE #3-Optional

ENTERING THE COMPLAINT PROCESS

Determine nature of allegations
Prepare DA Form 7279-R
Determine appropriate agency
Swear to complaint
Consult with EOR or EOA

ENTERING THE EO COMPLAINT PROCESS

Deliberate resolution of EO and sexual harassment complaints is in the best interest of both the soldier filing the complaint and the command. Submission of EO complaints to the chain of command is strongly encouraged.

The nature and circumstances surrounding certain allegations will dictate whether alternative agencies are more appropriate. Regardless of what agency handles a formal complaint, the complainant must be sworn to the complaint on DA Form 7279-R. Any complaint which identifies criminal activity will be referred to the proper commander or agency for processing. Complaints of sexual assault or rape will immediately be referred to the appropriate medical agency for the collection of evidence in a criminal investigation and in treating and counseling

the victim. Claims of discrimination in housing, both on and off post, will be referred to the housing referral office.

Complaints filed with the IG's office will be processed as an Inspector General Action Requests (IGARS) JAW AR 20-1. No timeline will be imposed on conducting the investigation or feedback to the complainant. Complaints filed against promotable colonels, general officers, IG of all components, members of the Senior Executive Service, or Executive Schedule personnel will be reported to the Investigations Division, U.S. Army Inspector General Agency within five calendar days of receipt.

Regardless of what agency or commander receives the complaint, the chain of command has 14 calendar days (or three weekend drill periods for Reserve Components) in which to resolve or refer it to a higher echelon commander. The commander who has the responsibility for resolving the complaint may request an extension of up to 30 additional calendar days (or two weekend drills for Reserve Components) after the initial 14-day suspense.

Receipt of complaints will be annotated in writing on a DA Form 7279-R, Part Id. If the receiving agency decides not to investigate but to refer the complaint to another agency or, with the consent of the complainant, back to the appropriate commander, the referral must be made within 3 calendar days (at the next drill period for reserve components), with the written acknowledgment of the commander or agency receiving the referral (DA Form 7279-R, Part 10a).

CONSULTING WITH THE EOR OR EOA

The unit Equal Opportunity Representative (EOR) or the organization or installation Equal Opportunity Advisor (EOA) serves as a ready resource to help commanders and their soldiers resolve EO grievances. Before submitting a formal complaint, the complainant may want to consider consulting with the EOR or EOA to clarify their concerns or discuss alternatives in resolving EO grievances.

Soldiers should not expect EO personnel to take sides nor direct them in resolving their complaint. Whether at unit or higher echelons, EO personnel can serve as an alternative agency to receive and process EO complaints. They can be invaluable assets to commanders and soldiers in identifying and developing courses of action to resolve situations of discrimination or sexual harassment.

SLIDE #4-Optional

EQUAL OPPORTUNITY COMPLAINT PROCESS

**Inquiry or Investigation
Feedback to Complainant
Right to Appeal**

Protection Against Reprisal or Intimidation

CONDUCTING THE INQUIRY OR INVESTIGATION

The Unit commander will conduct an inquiry and or determine whether sufficient evidence exists to warrant a full investigation. The EOA may also assist the commander in conducting this inquiry. Should the commander determine that full investigation is required then he or she will forward the complaint to the battalion or brigade level commander for the appointment of an AR 15-6 investigating officer. The investigating officer is required to interview the complainant, alleged perpetrator(s), and all applicable witnesses. In addition the investigating officer will review appropriate records and reports. If during the investigation the investigating officer suspects a criminal offense has been committed then the involved parties will be advised of their rights under Article 31, UCMJ. The investigating officer will provide a written report to the commander on the results of the investigation. The commander appointing the AR 15-6 investigation will review the facts and take appropriate action.

FEEDBACK TO COMPLAINANT

It is extremely important for complainants to be kept informed on the disposition of their complaint or the progress of the inquiry or investigation. One of the primary criticisms heard in evaluations of complaint systems is that soldiers receive very little, if any, feedback on the results of investigations or actions being taken by the command to resolve the situation.

Whether the complaint is formal or informal, the complainant should be provided feedback on the disposition of his or her grievance. Initial written feedback to the complainant on DA Form 7279-R must be forwarded within 14 calendar days after receipt of the complaint. Written feedback will consist of investigative findings and an affirmation that appropriate action is being considered or taken to resolve the complaint.

Within 30 calendar days of the initial feedback (44 total calendar days), complainants should receive a final written disposition to their complaint.

In the event feedback or final disposition is not received in the prescribed time limits, complainants should request feedback verbally or in writing through their immediate chain of command.

THE RIGHT TO APPEAL

Should the complainant be dissatisfied with the disposition of his or her complaint or the corrective actions taken by the chain of command, he or she has the right to appeal. Appeals must be submitted within seven calendar days (at the next drill period for Reserve Component) following written notification on the final disposition of the complaint. An appeal to an EO complaint can be submitted to the soldier's immediate commander or the next higher commander. The final decision authority for appeals will rest with the General Court Martial Convening Authority for that major command. An exemption exist for those organizations

that have Memorandums of Understanding (MOU) or Memorandums of Support that delegate UCMJ authority to the local commander. An appeal must be submitted using DA Form 7279-R, Part IV. In preparing an appeal, the complainant should indicate whether he or she desires an appointment to speak with the appeal authority. On a separate piece of paper, the complainant specifies exactly, what issues (i.e., disposition, investigation, or corrective actions) he or she has disagreement. The appeal authority has 14 calendar days (30 calendar days for Reserve Component) to respond to complainant. The general court-martial convening authority will have "final decision authority" for appeals in that major command.

PROTECTION AGAINST REPRISAL OR INTIMIDATION

Department of the Army personnel are prohibited from taking any action that discourages soldiers or family members from filing a complaint or seeking assistance to resolve an EO issue. Army personnel are also prohibited from taking any disciplinary or other adverse action against a soldier for filing a complaint, seeking assistance, or cooperating with an investigating officer. However action may be taken against soldiers who file fraudulent complaints or give false statements.

It is the responsibility of the chain of command to ensure that all complainants are protected against reprisal or retaliation for filing EO complaints. Should soldiers or their family members be threatened with such reprisals or should an act of retaliation occur, they should immediately report the incident to the chain of command, the local Inspector General, or the next higher echelon commander.

SLIDE #5-(May be reproduced as hand-outs.)

ACTIONS BY THE COMPLAINANT
<ul style="list-style-type: none">• Determine Nature of Complaint• Identify Specific Facts and Witnesses• Consult with EOA/EOR• Prepare DA FORM 7279-R• Swear to Complaint• Ask for Copy of DA FORM 7279-R
ACTIONS BY THE COMPLAINANT (continued)

- o Concur with Alternative Agency on Referral**
- o Inform Chain of Command of Any Additional Facts or New Witnesses**
- o Receive Initial Feedback**
- o Receive Final Disposition**
- o Accept Commander's Decision or Appeal Within Seven Calendar Days**
- o Report Acts of Intimidation or Reprisal**